

**Municipal Review Committee
Town Hall Auditorium**

**February 9, 2004
7:00 p.m.**

Attendance: Phil Sgamma, Chairperson
Dan Michnik, MRC Member
Matt Balling, MRC Member
Paul Shear, MRC Member
Rich McNamara, MRC Member
Scott Bylewski, Town Board Liaison
Jeff Grenzebach, Planning Board Liaison
James Callahan, Ex-Officio Member, Dir. of Community Development
James Hartz, Asst. Dir. Of Community Development
Pat Powers
Wendy Salvati
Tim Pazda
Reas Graber
Tom Hollander
Joe Strapeson
Susan King
Clayt Ertel
Lily Jewitt
George VanNest
Nancy Bergum
Carol Minnick
Dolores Liebner
Andre Pigeon
Drew Steger
Mike Williams

Agenda Item I - Public Hearing on the Gables on the Green DEIS
Applicant – Meteor Enterprises, LLC (Tom Hollander,
Joe Strapeson) 180 Townhouse units in 90 buildings and 45 single-
family homes on 160 acres.

Phil Sgamma welcomed all those in attendance and introduced the project. All of the comments made tonight will be included in the Final Environmental Impact Statement (FEIS) and written comments will be accepted until February 23, 2004. Any written comments may be made to the Clarence Planning and Zoning Department.

Jim Callahan gave a brief history of the project review process. The purpose of tonight's meeting is to receive any comments on the Draft Environmental Impact Statement (DEIS) for the project. The Town has received some comments from the Erie County Department of Environment & Planning and the New York State Department of Environmental Conservation. The Town has to finalize their FEIS by March 26, 2004 and prepare a final findings statement on the proposal by April 26, 2004.

Phil Sgamma asked the applicant to make any comments at the beginning of the public session. Tom Hollander said that he is representing Meteor Enterprises, LLC and would like to offer some comments at the end of the meeting.

Scott Bylewski, Town Councilman, said that in the October 2003 Draft there is a scope of issues that need to be addressed listed on pages 7-10 and he would like to see them correlated with the final DEIS for the sake of ease of reading and to insure that all of the questions are answered.

George Van Nest, resident of 10740 Jones Road, said that he has had the opportunity to read several Draft Environmental Impact Statements through his employment as an attorney. He said that, "this DEIS is unquestionably the most confusing, incomplete, and incoherent DEIS, in the sense that it does not analytically address the environmental issues that are raised by this project. It is black letter law under SEQRA and case law that the DEIS has to be analytical and not encyclopedic. It has to consider the issues. This DEIS does not do that. It does not give the issues that are posed by this project the requisite "hard look" that must be given to potential environmental issues. Consequently, this DEIS cannot be deemed complete and final until it does that. In terms of some of the specific issues, I'll make a few general comments, and then submit additional textbook comments in a few days.

The DEIS does not adequately address site selection and suitability, other than to suggest that it is available and that it is an undeveloped parcel and that it needs to be reclaimed. This site was a gravel (mine). It is environmentally innate. In my experience with the Mined Reclamation Law, which requires a mining program to have a reclamation project in mind and a plan to be followed through. The applicant's for those types of projects do not propose and do not include a project to have residential subdivisions (as reclamation). It simply does not happen under New York State Law. Those sites are not suitable for the type of high density and high impact environmental conditions and impacts that are going to occur from a residential subdivision on that type of property. Mined Land Reclamation projects, generally speaking, entail redevelopment of the site as a park, as a lake, as a golf course, something that is low intensity. They are not going to bring in the type of impacts that this project will bring, infrastructure, roads, traffic, and so forth.

One of the characterizations given to this project that makes it unique is that it is a desert-like atmosphere. If it is a desert-like atmosphere that is sought, people who are looking for those types of properties would, in fact, move to the Southwest.

The other thing that is not taken into account in the DEIS is the amount of site preparation that is going to be required. It is unique and it will require a great deal of work to bring this thing up to the point where site preparation can be completed.

Another issue that this EIS fails to address or adequately address is community character, which is going to be impacted by this development. Now, clearly, the Town of Clarence is unique in the Western New York area. It is characterized by single-family homes, larger lots, low-density build out. This project has the impact of turning that type of

community character on its head. And quite frankly, having previously lived in Amherst, although Amherst is a wonderful place, I do not particularly enjoy or envision the idea of living in a Clarence that turns into an Amherst. This DEIS does not take into account the essential characteristics of Clarence that are preserved in its zoning laws and open space plan, which provides for maintaining the open space character of the Town.

The third point that this DEIS does not adequately address is traffic, congestion, and construction. Jones Road is currently a 1.5 lane wide road. It does not have adequate shoulders to handle the heavy truck traffic passing both ways. This past summer, the Town of Clarence had a filling operation going on the south side of Jones Road in another former quarry location. If there were two trucks traveling on the road in opposite directions, one would have to pull off to the side.

The level of service that will have to be achieved as a result of this project cannot be accommodated by the existing roadways. Jones Road is crowned and weathered. I'm sure the Town Highway Department does an excellent job maintaining the roadways; it's just that this road is not up to the level of service that is necessary for heavy equipment. In terms of congestion, this proposed facility will have 240+ units. I don't think that there has been adequate consideration in this DEIS on the impacts of the number of people, vehicles, and trips per day that this project will generate.

Another point is construction vehicles. Aside from the presence of heavy vehicles on the roadways, they are inherently carriers of dust, dirt, and debris. Just this past summer when the trucks were entering and exiting the former quarry, Jones Road was heavily impacted. There was dust, debris, clay, and dirt throughout three quarters of the road from the pit exit all the way to Ransom Road. The impact of that was multi-fold. First, (the dirt, etc.) is on the streets that present a hazard when it rains. Second, there is dust and debris circulating around the neighborhood. I live on the north side of Jones Road and downwind of the roadway. Whenever the wind picks up I have dust and dirt all over my vehicles and home. My understanding is that this project will be built out over ten years. I submit that nobody should be subjected to that type of environment for over ten years or even two years.

Another point on this DEIS is the question of market need. There is no full and complete analysis of whether this project is needed or not. There is no evidence of market support for this project other than to say the property is available and that it needs to be reclaimed and that it may fill a market need of some sort. There is no thorough analysis.

The last point that needs to be addressed is the formation of a Sewer Works Corporation. They are created to construct and maintain a private sewer system. They require the Town to sign on to that type of situation and guarantee the operation and maintenance in case of a bankruptcy or failure. The Sewer Works Corporation is so unusual that it has to be approved by the state. It is a prerequisite for a private sewer system. The problem is that they are private corporations installing and operating private sewer systems, which is something that is not done best by private corporations. These are normally municipal functions and best served by municipal entities. They know best how to administer those

types of systems. Having been involved with a few Sewer Works Corporations, I can tell you that it's not an easy or smooth operation. There are inherently problems and inherently, it becomes one Homeowner's Association against another Homeowner's Association.

I will also submit some written comments soon.

Lilly Jewitt, resident of 10750 Rosewood Lane, my property will back right up to the development. My concerns are that over the last two years, whenever a question has been raised the answer given was always that the information is either inaccurate or insufficient. Has there been any information gathered in the recent past that will tell us what the impacts of this development will be? I have been through this once before. My last home lost \$50,000 in value because of a development like this one. We were told by the developers there that the area would be developed into a golf course and recreation area. The developer leveled the area, about 200 acres, with blasting. After two years, the mud was still running through the road and the construction trucks were still rolling through the streets ruining them. This issue has not been addressed.

This development is supposed to be a ten-year build out plan. George Van Nest already stated about the dust. In my old home the dust would permeate everything. You literally would have to wash off your dishes before you could serve on them. You could not cook; you could not drink from a glass because of the dust settling. You couldn't keep it off of the furniture or off the siding on the home. When it rained, all of the houses would drip with mud. It would plug up the gutters. There was stone on the streets. It was a relatively new development, but after five years the asphalt had started to crack and ripple in the streets from the heavy traffic. I don't think any of this has been addressed. The noise, the pollution, the dirt, and the diesel fumes in the air.

The number of vehicles that the surrounding streets will have to absorb, the number of students that will have to be accommodated in our schools. I've read through the study that was recently done for the School District and it is my conclusion that we cannot absorb another 400-500 students. If there is one child per unit in Clarence, and we are talking about 240 units. That's another elementary school. As the population in Clarence continues to age, are we going to reach a point like Depew did where they were the first school system to receive the () accreditation in the state and they now cannot pass a school budget.

A little over a year ago, the neighbors went around with a petition of ten issues and to survey the neighborhood about the proposed development. After we described the project and told them that it would be in their back yard, they signed it. We had over two hundred signatures. The scoping session was based on those issues and I don't believe that this DEIS addresses those issues. I took a hit on my last property and I do not want that to happen again.

Andre Pigeon, 10721 Rosewood Lane, I stand before you in opposition for this development. Many things were stated previously. Traffic, sewage, especially for those

in the Town of Newstead and what that will do to the underground aquifers. Water pressure is a real problem in that neighborhood. There is another 21-lot subdivision planned for Stage and Schurr Roads. How is that going to affect water pressure? There is a possible impact from the mile-410 Thruway Toll Barrier that seems to warrant a lessening of the units. Especially, with the amount of duplexes, doubles, or whatever you want to call them. Ninety (90) two-unit buildings plus sixty (60) single-family homes seems like too much to fit on that parcel. You people will have to help the Town Board to make that decision.

Drew Steger, 4515 Ransom Road, I really don't want to go over the same issues again, but in the quarry my property drops off into the quarry. Every spring there is a lot of water. I don't know how the developer is going to put in a sewage treatment plant in that area. It is proposed to go by the back of my house, which means I'm going to hear it or smell it.

One of the proposed entrances is between two houses on Ransom Road. Any of the truck traffic that is going to be accessing the development will be traveling on Ransom Road. With the NYSDOT reconstruction of Main Street, the Thruway Toll Barrier construction, and the Brothers of Mercy traffic how are emergency vehicles going to get in and out of the facility?

Why should the Town have to pay for the sewer system? The developers are going to say they ran out of money and put it to the Town. We have been coming to meetings for two years and it seems that nothing is done right. We don't even know what is going on with the Thruway either. We don't want to turn into another Amherst. I've feel that I have been lied to reading some of the earlier paperwork. If they could come up with a plan that is definitive and tell us why they feel it is going to take ten years to build out, then we will have something to review. So many of the issues have not been addressed. I don't feel that there is a person in this room who feels that this is going to be a good thing for our area.

Mike Williams, a resident of Ransom Road, I just have a comment not really anything to do with the DEIS. I believe we are talking about half the acreage. What is going on with the other half of the property? Maybe the Town should be looking at double the amount of units, like 300-400 townhomes back there. Other than that, I think everything else has been addressed other than, "what is going on with the Master Plan?" Obviously it does not carry a lot of clout. Otherwise, we wouldn't be here with this. I think you should look at the big picture. If this project goes forward, guess what's going in right next-door?

Tom Hollander, project applicant, said as I listen to these remarks, I don't know who is using the English Language. The issues that have been brought up this evening are addressed in the DEIS. It makes me wonder whether the document was even read and was digested by the people raising these issues. The concept of the traffic study, "we have had five traffic studies. And this document contains the results of those." There was reference made to two-family homes, there are no two-family homes. Townhouses

are regarded in the state tax code and by the Town of Clarence as single-family homes. As a result, I am selling single-family units to single-families. There are no two-family homes. This was an erroneous statement made when the project first was introduced to the Town and the Planning Board sent a notice stating that they were two-family homes. That was an improper interpretation.

I am sorry that Ms. Jewitt had a problem someplace else. But if she had come to us, we would have shown her exactly where the units were going to be and how they were going to have a minimal impact on her house. She would've been pleased. We have spent thousands of dollars, we have expert opinion, we have had our scientific studies done, we have had our engineering studies done, and our DEIS includes all of that. The information on the site plan is contained in our DEIS. The problem arises when you try to reduce 160-acre site plan down into a letter size. It becomes very difficult to read. It is easy to get it wrong. Tom Hollander read a letter into the minutes (attached.)

Drew Steger, resident of 4515 Ransom Road, the one proposed entrance opposite Bergtold Road does not have a real estate sign on it any longer. Two-family homes connected by a shared wall are still considered duplexes, in real estate jargon. It is not going to be the elderly that will be buying these homes. The number of cars and students are going to have a major impact.

Drew Steger said that he has never seen the DEIS. Phil Sgamma said that it has been available for the last thirty days in the Planning & Zoning Office, the Library, and the Town Clerk's Office. You will have ten days or until Feb. 23, 2004 to submit written comments on the DEIS.

Mr. Steger said that he has spoken to several state agencies to get different opinions on this. We're not being told a lot other than from those state agencies that Mr. Hollander has to answer to. We don't know all the facts. Maybe when we do know, we can make a better decision on this project. You know there's farmland down on the other side of Greiner Road, which is for sale. That might be a better area to develop. This location behind (my house) floods and the water pressure stinks. There has to be a better area for (this project).

Delores Liebner, resident of Jones Road, I am concerned about the aquifer. I live on the south side of Jones Road and I am dependant on well water. So are the people that live along Billo Road. So if there is any impact on the water, we will be affected.

George Van Nest, resident of Jones Road, said that he is not opposed to development and growth in the Town of Clarence. I fully support growth. What I am opposed to and concerned about is a development that is ill designed, poorly sited, and has the potential to upset the design, planning, and balance that Clarence is striving for. That is something that the Town Board should take into consideration when making a decision on this project.

Lilly Jewitt, a resident of Rosewood Lane, said that if the project were to fail is there any type of bond that can be posted to ensure that any environmental disasters will offset the loss of property values? We had a problem at our last residence. The residents who had foundation damages from the development filed a class action suit against the developer, who then filed for bankruptcy protection. That made it impossible for the residents that had suffered these losses to recuperate any of it. Is there any way to ensure against that?

ACTION: Motion by Paul Shear, seconded by Matt Balling, that the MRC request the Town Attorney research any agreements between the Town of Clarence and the Town of Amherst and also Erie County, to see what reference is made on private sewer corporations within the Town of Clarence, whether we are allowed to have them.

QUESTION: Phil Sgamma said that they want to be sure that there is no proprietary agreement between the Town of Clarence and the Town of Amherst and Erie County that preclude the formation of private sewage works corporation.

VOTING: All Ayes.

MOTION PASSED

Phil Sgamma thanked all those in attendance.

Meeting adjourned at 8:00 p.m.